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FaceTime Communications, Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FACETIME COMMUNICATIONS, INC.,

Plaintiff,

v.

REUTERS LIMITED,

Defendant.

DOCUMENT ELECTRONICALLY FILED

Civil Action No. 08-4730 (CM)

**DECLARATION OF SCOTT CASE IN
SUPPORT OF PLAINTIFF FACETIME'S
MOTION FOR SUMMARY JUDGMENT**

I, **SCOTT CASE**, being of full age, hereby declare as follows:

1. I am the Chief Financial Officer of Plaintiff FaceTime Communications, Inc. ("FaceTime"). I make this declaration to put forth certain facts and documents in support of FaceTime's motion for summary judgment. In particular, my declaration sets forth the facts surrounding Defendant Reuters' attempt to belatedly exercise its option to purchase a perpetual license from FaceTime, and FaceTime's rejection of that attempt. Except as indicated below, I have personal knowledge of the matters stated in this declaration.

2. On February 19, 2008, Reuters' Senior Vice President of Strategic Alliances, Chris Lamb, sent an e-mail to FaceTime's accounts receivable department. The e-mail, which is attached as *Exhibit A*, stated in full: "Last Friday we wired \$150,000 USD to


Facetime as the final payment for our agreement with you with an effective date of 31 January 2006. Please confirm that you have received and accepted these funds."

3. After checking our records, FaceTime was able to confirm that it had received an unsolicited wire transfer from Reuters for \$150,000. The wire transfer, however, was sent by Reuters on February 15, 2008 -- a full two weeks after Reuters' option to purchase a perpetual license from FaceTime had already expired under the parties' Source Code Licensing Agreement, and after Reuters had been notified in writing (and verbally) of the option's expiration and the termination of the Agreement. FaceTime's notice to Reuters that the option to purchase a perpetual license had expired is described in the accompanying declarations of Jim Obrien (FaceTime's General Counsel) and Deric Moilliet (FaceTime's Vice President of Corporate Development).

4. On February 20, I sent a response e-mail to Mr. Lamb of Reuters. My e-mail reminded Mr. Lamb that the "agreement with Reuters terminated January 31, 2008. Payment was required by that date to meet the terms of that expired agreement." A copy of my February 20 e-mail is also included in the e-mail thread attached as *Exhibit A*.

5. I further stated in my February 20 e-mail that FaceTime was returning the \$150,000 to Reuters, less \$65,453.50 for certain payments that remained outstanding to FaceTime. Accordingly, \$84,546.50 was thereafter wired back to Reuters.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct.



Scott Case

Dated: June 16, 2008

EXHIBIT A

----- Original Message -----

From: Scott Case

To: Chris.Lamb@reuters.com <Chris.Lamb@reuters.com>

Cc: Deric Moilliet

Sent: Wed Feb 20 11:17:59 2008

Subject: Reuters and FaceTime - need remittance info

Chris

Our agreement with Reuters terminated January 31, 2008. Payment was required by that date to meet the terms of that expired

agreement. My understanding is that you and Deric Moillet are meeting soon to establish a new agreement between FaceTime & Reuters.

Reuters has \$65,453.50 of other payments outstanding to Facetime. I will remit the balance of \$84,546.50 to Reuters and wanted to make sure that I wired to the correct account. Unless I hear differently from you this week, we will wire that balance back to you at the account we have on record.

Invoice#

Reseller

End User

Invoice date

Amount due

10900

Reuters Ltd.

Credit Suisse First Boston LLC

11/10/06

\$ 33,000.00

10823

Reuters Ltd.

Reuters Ltd.

10/13/06

\$ 22,891.00

11027

Reuters Ltd.

Reuters Ltd.

1/10/07

\$ 9,562.50

\$ 65,453.50

Regards

J. Scott Case
CFO, FaceTime Communications
1301 Shoreway Rd | Suite 275 | Belmont, CA 94002
w 650-631-6311 | m 415-271-7565 | Skype - jscase

From: Swapnika Kamle
Sent: Tuesday, February 19, 2008 11:34 AM
To: Chris Lamb
Cc: Rose Bratkowsky
Subject: RE: Wired Funds

Hi Chris,

This is to confirm that we have received the payment by wire.

Thank you,

Swapnika Kamle

AR Accountant

Facetime Communications

1301 Shoreway Blvd

Suite 275

Belmont, CA - 94002

USA

Phone: 650-631-6321

Fax: 650-598-2820

Email: skamle@facetime.com

From: Chris Lamb [<mailto:Chris.Lamb@reuters.com>]

Sent: Tuesday, February 19, 2008 11:27 AM

To: Swapnika Kamle

Subject: Wired Funds

Swapnika:

Last Friday we wired \$150,000 USD to Facetime as the final payment for our agreement with you with an effective date of 31 January 2006.

Please confirm that you have received and accepted these funds.

Thank you,

Chris Lamb